

Filed for intro on 01/17/2002
HOUSE BILL 2281 By
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SENATE BILL 2640
By Cooper J

AN ACT to amend Tennessee Code Annotated, Title 67, Chapter 5, relative to determining the owner of owner-occupied real property for property tax liability and apportionment of liability for delinquency between sellers and purchasers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 5, Part 5, is amended by adding sections 2 through 4 of this act as new, appropriately designated sections:

SECTION 2.

(a) Notwithstanding the provisions of Section 67-5-502, Section 67-5-2101(b), or any other provision of law to the contrary, if the owner or person claiming to own any owner-occupied real property on January 1 of any given year sells such property during that same calendar year, the seller of such property, except as provided in this section, shall not be assessed or identified as the owner of such property for purposes of assessing or collecting any property tax delinquency, and shall have no personal liability for any property tax delinquency for that calendar year, if such seller does the following prior to September 1 of that calendar year:

(1) Pays either directly to the trustee or the trustee's designee, or a third party escrow agent pays directly to the trustee or the trustee's designee, the seller's estimated pro rata share of property taxes on the property to the date of sale based upon the taxes assessed for the previous year;

(2) Provides a properly notarized written affidavit to the county trustee or the trustee's designee identifying the property, stating that:

(A) the property has been sold, including the date of sale, the identity of the purchaser of the property and the last known mailing address of the purchaser;

(B) the seller has paid either directly to the trustee or the trustee's designee, or a third party escrow agent, identified by name and address in the affidavit, has paid to the trustee or the trustee's designee, the seller's estimated pro rata share of property taxes on the property to the date of sale based upon the taxes assessed for the previous year and including the amount of the pro rata payment;

(C) the seller will pay any deficiency between the estimated payment and the actual amount of tax liability to the date of sale; and

(D) the seller makes the statements in the affidavit under penalty of perjury for any false or intentionally incomplete or misleading statement; and

(3) Attaches to the affidavit a true and correct copy of the deed of the property to the purchaser. If the property has been sold or purportedly sold without any deed, then the provisions of this act shall not

be applicable and the seller shall remain liable as under the law prior to the effective date of this act, as otherwise amended by this act.

(b) Except as provided in subsection (d), if the seller complies with the filing and payment requirements of subsection (a) of this section between September 1 and December 31 of that calendar year, the seller will have satisfied the seller's property tax obligation and will not be personally liable for any delinquency in property taxes for that year. Any assessment or identification of such seller occurring between September 1 and December 31 of that year will not subject such seller to personal liability for any property tax for that year.

(c) The trustee or the trustee's designee shall not identify any seller of owner-occupied real property as delinquent in the payment of property taxes once such seller has complied with the filing and payment requirements of subsections (a) or (b).

(d) If the seller fails to pay any difference between the seller's estimated pro rata share for the year of sale and the seller's actual pro rata liability for the year of sale within ninety (90) days of the date notice of such deficiency is mailed by the trustee to the seller, then the provisions of this section shall not be applicable and the seller shall remain liable as under the law prior to January 1, 2003.

SECTION 3. If the seller of owner-occupied real property complies with the provisions of Section 2, the purchaser of such property shall be liable for the purchaser's pro rata share of property taxes on that property for the portion of the year in which the purchaser owns the property and shall be assessed and identified as the owner of such property for purposes of assessing or collecting any property tax delinquency, and shall be personally liable for any such delinquency pursuant to Section 67-5-2101. If the owner-occupied real property is sold more than once during a calendar year, the provisions of this section shall apply to any purchaser during that calendar year who has not also resold all of the property during that calendar year, or who has resold all of the property during that calendar year but has not complied with the

provisions of Section 2 as a seller. If more than one purchaser either has not resold all of the property or has not complied with the provisions of Section 2 as a seller, then all such purchasers shall be jointly and severally liable for the pro rata share of property taxes not otherwise paid by a seller who has complied with Section 2.

SECTION 4. Any seller of owner-occupied real property who does not comply with the provisions of Section 2 shall be personally liable, jointly and severally, with any purchaser of the property from that seller for any property taxes owed during the calendar year in which the property was sold to that purchaser.

SECTION 5. Section 67-5-1801(e) is amended by deleting subdivision (1) in its entirety and inserting in lieu thereof the language "Any county trustee shall accept partial payment of property taxes pursuant to the provisions of Section 2 and may otherwise accept partial payment of property taxes."

SECTION 6. Section 67-5-2001(a)(2) is amended by deleting the word "In" at the beginning of the subsection and inserting in lieu thereof "Except as provided in Section 2, in".

SECTION 7. Section 67-5-2101(b) is amended by deleting the word "In" at the beginning of the subsection and inserting in lieu thereof "Except as provided in Section 2, in".

SECTION 8. This act shall take effect January 1, 2003, the public welfare requiring it.